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అధికారమువలన ప్రచురించబడినది.

నెం. 7(1)

గుంటూరు, 2009వ సంవత్సరము, జూలై నెల, 20వ తేది, సోమవారము

Copy of :-

ORDER :-

PROCEEDINGS OF THE COLLECTOR &
DISTRICT MAGISTRATE, GUNTUR

Present : KANTHILAL DANDE I.A.S.,
(FAC)

[Rc. No. 216/06-C4]

Dated : 10-6-2009]

Sub ÷ Caste Verification - Guntur
District - Tenali Town and
Mandal - Enquiry conducted
through DLSC, Konda Kapu (ST)
caste certificate of Smt.
Y. Hymavathi, D/o
Venkateswarlu found false -
Cancellation - Order issued

Ref ÷ 1 Ir. No. 099/21/499, dated
24-1-2006 from the Chair-
man, Chaitanya Grameena
Bank, Head Office, Guntur.

2 Other connected papers.

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The Chairman, Chaitanya Grameena Bank, Guntur has requested to verify the Konda Kapu (ST) caste of Smt. Y. Hymavathi working as Clerk cum Cashier at Vatticherukuru branch of their Bank, Guntur District. Smt. Y. Hymavathi joined in the Bank on 10-4-1991 under Scheduled Tribe reserved category by producing a caste certificate dated 1-7-1986 issued by the then Mandal Revenue Officer, Tenali. A complaint was filed against her that she does not belong to ST category and that she submitted a false caste certificate in support of her claim. The Chairman, Chaitanya Grameena Bank, Guntur has enclosed a copy of the representation of Andhra Pradesh Girijana Samkshema Seva Sangam, Guntur who represented that Yadda Hymavathi was born and brought up in Kapu community from Tenali Town, her father was Yadda Venkata Rao, a popular person and enjoining the status of Kapu (OC) and her mother also belongs to OC community. Sri Yadda Venkata Rao had three children and all are residing and studying and enjoyed the status of Kapu community at Tenali. But Y. Hymavathi managed to get her caste

recorded as Konda Kapu community since her first class in the school records, based on the school records in 1986 she got caste certificate from Tenali Mandal Revenue Office as Konda Kapu. The Mandal Revenue Officer has issued the caste certificate as per the school records. But in Guntur District Konda Kapu community is not present, all the children of Yadla Venkata Rao are married to Kapu community and their own blood relatives are from Kapu communities. At the same time Yadla Hymavathi married Nagisetty Venkata Rao, Durgi Village of Guntur District from Kapu community, her husband is working as Senior Assistant in Zilla Parishad, Guntur and her only daughter was studying in Loyala Public School at Nallapadu, Guntur under Kapu community. Hence Girijana Sankshema Seva Sangam, Guntur has requested all the higher officials to pursue the actual facts and not to allow her to enjoy the benefits of the ST in her Department, Chaitanya Gramina Bank.

The National Commission for Scheduled Tribes, New Delhi in No. Asso-95/FCS-17/206/ST/SSW, dated 15-6-2006 has requested to furnish full facts of the case taking into account the points. The National Commission, which is a constitutional body set up under Article '338'A is inter alia, entrusted with duties to inquire into specific complaints with respect to the deprivation of rights and safeguards of Scheduled Tribes and has been given powers of Civil Court to deal with the complaints.

The Revenue Divisional Officer, Tenali in Rc. No. 70/2006/D, dated 26-12-2006 has submitted a report stating that the Mandal Revenue Officer, Tenali reported that the forefathers of Yadla Hymavathi migrated from Kurnool District long back to Tenali Town in search of livelihood and settled at Tenali. They belong to Konda Kapu (ST) caste. The caste of Yadla Venkateswarlu, father of Y. Hymavathi was recorded as Konda Kapu (ST). The caste of Y. Hymavathi, her sister Latha and brother Prakash are also recorded as Konda Kapu (ST) in school records. The caste of Y. Anjaneyulu, uncle (father's brother) of Y. Hymavathi was also recorded as Konda Kapu (ST) in school records

now he is working as ACTO at Tenali. Y. Venkateswarlu, father of Y. Hymavathi died recently. The Mandal Revenue Officer enquired Y. Sarada W/o late Venkateswarlu. She stated that she belongs to Kamma (OC) and she married Yadla Venkateswarlu who belongs to Konda Kapu (ST). It was an inter caste marriage. He had two daughters and one son, Hymavathi, Latha and Prakash. The caste of children was recorded as Konda Kapu (ST) in school records. Hymavathi married Nagisetty Venkateswara Rao a Kapu caste person (OC). She has one female child Divyasri and her caste is entered as Kapu in school records. Latha and Prakash also married Kapu (OC) caste persons. The Mandal Revenue Officer, Tenali enquired the neighbouring residents of Y. Sarada and they stated that the family of Y. Venkateswarlu belongs to Konda Kapu caste. Smt. Y. Hymavathi attended before the Revenue Divisional Officer, Tenali on 25-12-2006 and her deposition has been recorded. She stated that her grand father, Y. Prakasa Rao had migrated to Tenali Town from, Mulasagaram Village of Nandyala Mandal, Kurnool District about 60 years back and settled at Tenali Town he belongs to Konda Kapu (ST) caste. He married Annapurnaamma, a Kapu caste person. It was an intercaste marriage. Prakasa Rao had two sons and one daughter. Y. Venkateswarlu, Y. Anjaneyulu and Y. manikyalu (daughter). Their caste was recorded as Konda Kapu in school records. The caste of Y. Venkateswarlu was also recorded as Konda Kapu Smt. Y. Hymavathi stated that her father worked as convener of ST caste people association and he used to tell her that Konda Kapu (ST) people are residing in Chinnavuru area of Tenali Town, she stated that she has no knowledge about her relatives of her father side and she is not told whether they are residing in Nandyala area or not. She also stated that they had no relations with Konda Kapu caste people. She does not know the lifestyles, traditions and customs of Konda Kapu people. She was brought up in upper caste locality only. It is therefore evident that none of the family members of Y. Hymavathi married Konda Kapu caste people. They had no relations with Konda Kapu people. They are residing in upper caste locality and established marital relations with

upper caste in the society i.e., Telaga (Kapu). It is not established whether the forefathers of Y. Hymavathi has migrated from Nandyala area of Kurnool District or not. The Revenue Divisional Officer, Tenali finally reported that the Tribal background (Konda Kapu (ST) of Smt. Y. Hymavathi is not established even though her caste is recorded as Konda Kapu in the school records but she is practically enjoying upper caste status. Further she could not reveal the names of her relatives at their forefathers place, to enquire whether they migrated from Kurnool District. It is also ascertained that there are no Konda Kapu origins in Tenali area.

The Director of Tribal Welfare, Hyderabad in Rc. No. 4471/1/2006/ TRI/VC-7, dated 20-1-2007 has informed to direct Smt. Y. Hymavathi to appear before the Director, Tribal Cultural Research & Training Institute, to substantiate her Scheduled Tribe status claims. The candidate and her mother Nimmagadda Sarada attended their office on 11-12-2006 and furnished the written information about their community and relatives and also produced certain copies of certificates in support of her Scheduled Tribe status claims details of which are follows.

Her family was a permanent resident of Mulasagaram Village, Nandyala Mandal, Kurnool District and migrated to Tenali, Guntur District during 1921 and residing there till now at H. No. 6-2-35(1) Bandlanudi Vari Street, Tenali, she is now residing at Sripathinilayam 1st house 6th line Syamalanagar, Guntur-6. Her paternal Grandfather Yadla Prakasa Rao said to be belonging to Konda Kapu, admittedly married Lankisetty Annapurna of Telaga Caste. Her father Yadla Venkateswarlu said to belong to Konda Kapu married Nimmagadda Sarada D/o N. Rathaiah, R/o Amarthaluru Village and Mandal, Guntur District who belong to Kamma caste. The employee Y. Hymavathi is also married to Nagisetty Venkateswarlu S/o Sripathi Rao, R/o Durg Village and Mandal, Guntur District who belongs to Telaga caste. Her brother and sister also married to Telaga caste people. Her father's brother and his children are also married to Telaga caste people. Her father's sister

is married in Telaga caste. Her mother and all maternal relatives belong to Kamma caste.

Regarding ethnographic information furnished by her about her said to be Konda Kapu community her clan Gotram Panidipalla is not found among Konda Kapus, but is prominent among Kapu or Telaga caste. Her surname Yadla is also not found among Konda Kapus. She along with her mother admitted that they don't know about the surnames in Konda Kapu community and their traditional occupation, Traditional types of marriages, dialect and traditional food practices, traditional deities worshipped and festivals performed by Konda Kapus. Thus she is ignorant of any of the customs and traditions of Konda Kapu Tribe.

She produced the Xerox copies of the certificates in support of her Scheduled Tribe status claim.

- u) Record sheet issued by the Head Master, S. S. E. C. Aided Elementary School, Gandhinagar, Tenali, where she studied IV and V classes and her caste was recorded as Konda Kapu.
- v) Transfer Certificate issued by the Principal, Taluk Jr. College, Tenali where she studied Xth Class during 1985-86, her caste is recorded as Konda Kapu BC but later the letters BC were struck off and the principal has affixed initials at this correction.
- w) Transfer Certificate issued by the Principal Taluk Jr. College, Tenali where she studied Intermediate course during 1986-88 and her caste is recorded as Konda Kapu Scheduled Tribe.
- x) Transfer Certificate issued by the Principal A. S. N. Degree College, Tenali wherein her caste is recorded as Scheduled Tribe Konda Kapu.

- y) First page of Secondary School Leaving Certificate of her father Yadla Venkateswarlu, issued by the Head Master, Municipal High School, Tenali and the Transfer Certificate issued from the same school, where in her father's caste is recorded as Konda Kapu.
- z) S.S.C. certificate of her father's brother Yadla Anjaneyulu where in his caste is recorded as Konda Kapu.
- aa) Her caste certificate Rc. No. 179/86 (ST), dated 1-7-1986 issued by the Mandal Revenue Officer, Tenali wherein it is certified that Y. Hymavathi D/o Venkateswarlu belongs to Konda Kapu community, Scheduled Tribe. It is clearly mentioned in the certificate that as per the Transfer Certificate issued by T. J. College, Tenali, T. C. No. 56, Ad. No. 7663, dated 10-6-1986 and the parent's S.S.L.C. Register first page Photostat copy, she belongs to Konda Kapu. The ancestors of the applicant have migrated from Kurnool District to Tenali some 40 years back for livelihood.
- bb) Transfer Certificate of Y. Prakash S/o Venkateswarlu, the own brother of the Employee, Hymavathi dated 22-7-1996 issued by the Principal VSR & NVR College, Tenali, wherein his caste is recorded as Scheduled Tribe Konda Kapu.
- cc) Letter written by Sri Konda Lakshmi Babuji, President, Andhra Pradesh, Balahinavargala, Minorities Sangam, Sri Y. Venkateswarlu, father of the employee mentioning him as convenor this document cannot be taken as a proof of his father as belonging to Konda Kapu Scheduled Tribe.
- dd) Based on the above information and copies of the certificates it is found that the Original place permanent residence of the family of Y. Hymavathi i.e., Nandyal Mandal in Kurnool District and the present place of residence, Tenali in Guntur District are in traditional area of habitation of Konda Kapu Tribe. As per G. O Ms. No. 245 S.W.(E) Department, dated 30-6-1977, Konda Kapu is a synonym of Konda Dora tribe whose traditional areas of habitations are Srikakulam, Visakhapatnam and East Godavari District.

This clearly shows that the Mandal Revenue Officer, has issued certificate simply based on the entries in her school certificates without conducting any enquiry, in a most possible routine manner. Caste certificate of her father's brother of the employee dated 2-11-1983 issued by the Tahsildar, Tenali, wherein it is certified that Sri Y. Anjaneyulu S/o late Prakasa Rao belong to Konda Kapu (ST). In this certificate also it is recorded that "Issued this certificate basing on the entries in the SSLC Register. Thus the Tahsildar issued this caste certificate to the father's brother of the employee Smt. Y. Hymavathi simply based on entries in SSLC Register, without conducting any enquiry on the Scheduled Tribe status of the father's brother of Hymavathi. Therefore both these certificates are invalid.

That ignorance of the employee Y. Hymavathi about the socio cultural details of Konda Kapu tribe like surnames, clan (gothras) traditional types of marriage deities worshipped, festivals performed, commensal Practices, dialect etc., supports that she does not belong to Konda Kapu (ST). The caste certificates of the employee Y. Hymavathi issued by the Mandal Revenue Officer, Tenali, dated 1-7-1986 and of her father's brother Y. Anjaneyulu issued by the Tahsildar, Tenali, dated 2-11-1983 are simply based on entries in TCs and SSLC Register. Such certificates issued based on School Certificates without conducting any enquiry are in valid as the caste entries in school records are based on self declaration about the caste by the parents at the time of admission of their children into schools and the same will be entered into records

sheets, transfer certificates, etc., As there is no procedure prescribed or mechanism to verify the correctness of such self declarations about caste, they cannot be taken as conclusive proof of genuine caste. Genealogical information furnished by the employee Y. Hymavathi, her grand father, father, herself, her brother and sister all have married in non tribal castes of Telaga, Kamma, Balija in Krishna and Guntur Districts except stating that her grand father, father and their children belong to Konda Kapu, and having obtained caste certificate to her and her brother which are based on caste entries in school certificates like Transfer Certificate and SSC Register and issued without conducting any enquiry Smt. Y. Hymavathi in employee in Chaitanya Grameena Bank, Guntur District does not have any evidences to prove her Scheduled Tribe status claim as belonging to Konda Kapu community.

The Joint Collector & Additional District Magistrate & Chairman for D.L.S.C. gave sufficient opportunities to Smt. Y. Hymavathi to prove her community on 30-4-2007, 8-8-2007, 27-10-2007. But she did not attend the DLSC meeting.

Again the DLSC meeting was conducted on 15-11-2007 Smt. Y. Hymavathi attended the meeting and statement was recorded from her.

She stated that she is residing Syamala Nagar 6th line, Guntur since 2003. She has resided from 2000 to 2003, Syamala Nagar 4th line, Guntur and from 1994 to 2000 at Durgi. Her father Y. Venkateswarlu died one year back. He used to do rice business when he was alive. Her fore father Venkataswamy migrated 80 years back from Mulasagaram Village of Nandyala Mandal, Kurmool District to Tenali. Her grand father's father had only one son, her grand father, his name was Prakasa Rao. Her grand father married Annapurnamma, belonging to Telaga. Her grand father had 3 children (1) Venkateswarlu (2) Anjaneyulu (3) Manikyalu. Her father Y. Venkateswarlu studied 10th Class. His caste was recorded as Konda Kapu in school records. Her father did not taken any caste certificate. Her father married Sarada, belonging

to Kamma, they had three children (1) Y. Hymavathi (2) Latha (3) Prakash. In all their education records, their caste was recorded as Konda Kapu. Y. Hymavathi studied B.Com and wrote BSRB and got job as Clerk/Cashier and worked in Grameena Chaitanya Bank in 1991 at Tenali, Adigoppula, Guntur Vattichenkuru. At present she is working at Anupalem. She got job in ST reservation special recruitment 1991. Her sister Latha studied 5th class and married her Aunt, Manikyalu's son belonging to Telaga (OC), she is a house wife, her aunt married Koteswara Rao, belonging to Telaga (OC). Her sister's children continued as Telaga (OC). Her sister's caste was recorded as Konda Kapu (ST) in school records. Y. Hymavathi's brother, Prakash studied Intermediate and working as salesman in Hindustan Lever Company. His caste was recorded as Konda Kapu (ST) in school records. He married his grand mother's brother's daughter, belonging to Telaga (OC). He had one daughter named Pravallika, 3 years studying nursery. Her father's brother Anjaneyulu studied B. Com. and working as A.C.T.O at Tenali. His education and job continued as Konda Kapu (ST). He had three children (1) Vijaya Lakshmi (2) Pradeep (3) Annapurna. Y. Hymavathi's father's brother married Swarnalatha belonging, to Telaga (OC). Their children's caste was not recorded as (ST). Y. Hymavathi was brought up by her grand mother and she did not know about the Konda Kapu traditions and customs. As her grand father died while her father was at the age of 7 years they did not learn the traditions and customs. In her family only her father mentioned his children's caste as Konda Kapu, but others like her uncle and paternal aunt have not mentioned their children's caste as Konda Kapu. Smt. Y. Hymavathi married Nagisetty Venkateswara Rao belonging to Telaga (OC), they had one child named Divyasri studying 8th class in Gowatham concept School.

Smt. Y. Hymavathi submitted copies of the certificates of the following persons in support of her claim.

1. Y. Venkateswarlu (father of Y. Hymavathi) Secondary School Leaving Certificate)

- 2 Transfer Certificate of Y.Venkateswarlu.
- 3 Y.Anjaneyulu (Father's brother of Y. Hymavathi) Secondary School Leaving Certificate.
- 4 Caste Certificate of Sri Y.Anjaneyulu.
- 5 Y. Prakash (brother of Y. Hymavathi) TC of VSR & NVR, College, Tenali.

The Joint Collector & Additional District Magistrate & Chairman instructed the then Mandal Revenue Officer, Tenali to enquire into the family particulars and submit the family tree particulars.

The Tahsildar, Tenali submitted the family tree particulars of Y. Hymavathi and observed that her father, paternal aunt and paternal uncle married Kamma and Kapu (OC) caste persons and their children were also married (OC) caste persons. Smt. Y. Hymavathi and her brother and sister also married (OC) caste persons and their children caste was recorded as OC in their school records.

The Joint Collector & Additional District Magistrate & Chairman for DLSC gave sufficient opportunities to Smt. Y. Hymavathi to prove her community on 23-1-2009 and 13-2-2009. But she did not attend the DLSC meeting.

As per guide lines laid down in G. O. Ms. No. 289, Social Welfare (J2) Department, dated 28-11-1986, "the Konda Kapu (ST) caste certificate issued by the Revenue Officer not below the rank of Tahsildar or Revenue Divisional Officer/Assistant Collector/Sub Collector of the Talukas / Divisions / District in respect of which the Scheduled Tribe claims Nativity is empowered to issue caste certificates.

As per the guidelines of the Government of India Annexure - II, Legal views on the status of the offspring born out of wedlock between a couple one of whom is a member of Scheduled Tribe Community, para 4 says that in the case of marriage between a tribal with a non-tribal, the main fact or consideration is whether the couple were accepted by the society

to which the tribal spouse belongs. If he or she, as the case may be, is accepted by the Society then their children shall be deemed to be Scheduled Tribes. but this situation can normally happen when the husband is a member of the Scheduled Tribe. However circumstances may be there when a Scheduled Tribe woman may have children from marriage with a non-Scheduled Tribe man. In that even the children may be treated as Scheduled Tribes only if the members of the Scheduled Tribe Community accept them and treat them as members of their own community.

"The caste - status of a person in the context would necessarily have to be determined in the light of the recognition received by him from the members of the caste into which he seeks an entry".

Para 5 As mentioned above, it is the recognition and acceptance by the society of the children born out of a marriage between a member of Scheduled Tribe with an outsider, which is the main determining factor irrespective of whether the Tribe is matriarchal or patriarchal.. The final result will always depend on whether the child was accepted as a member of the Scheduled Tribe or not.

As seen from the family tree of Yadla Hymavathi, it is observed that her father and uncle only are mentioned as Konda Kapu and her father only carried the ST status to his children by getting recorded the same in the school records. Her uncle through he is continuing ST status for himself, he did not claim the same to his children. The family tree clearly shows that all her cousins are continuing as OCs and married OC persons and she and her siblings also were married to OC persons thus showing their acceptance by the OC community and not by Konda Kapu (ST) community.

After perusing the entire record of the Revenue Divisional Officer, Tenali and the Tahsildar, Tenali and G.O's and circular instructions, the DLSC opined that Y. Hymavathi does not belong to Konda Kapu (ST), and the caste certificate issued by the then Mandal Revenue

Of ficer ,Tenali, dated 1-7-1986 is liable to be cancelled.

In view of the above I Kanthilal Dande I.A.S., Collector & District Magistrate, Guntur, in exercise of the powers conferred under Rule 9(9) of the A. P. (SC, ST & BC's) regulation of issue of community certificates Rules, 1997 read with Section 5(1) of the Act, 1993 hereby cancel the Konda Kapu (ST) certificate fraudulently obtained by Sri Yadla Hymavathi by the Mandal Revenue Officer ,Tenali, dated 1-7-1986.

KANTHILAL DANDE ,
Collector & Dist. Magistrate,
Guntur .
